

18-1509(L) 18-1963(XAP)

IN THE
United States Court of Appeals
FOR THE SECOND CIRCUIT

Mexican Radio Corporation,
Petitioner

v.

National Labor Relations Board,
Respondent

APPENDIX

Dana L. Salazar
Kathleen L. McAchran
SALAZAR AND ERIKSON, LLP
Attorneys for Petitioner
573 Columbia Turnpike, Bldg. 3
East Greenbush, New York 12061
Phone: (518) 477-5108
Fax: (518) 477-5103
Email: dana@salazaresq.com

TABLE OF CONTENTS –APPENDIX

Complaint and Notices (Exhibit 2)	A-001
Garcia Response to Polanco Email	A-019
Fagoth Response to Polanco Email.....	A-023
Santana Response to Polanco Email	A-027
Palomino Response to Polanco Email	A-031

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2**

MEXICAN RADIO CORP.

and

Case No. 02-CA-168989

RACHEL NICOTRA, an Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Rachel Nicotra, an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Mexican Radio Corp. (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on February 3, 2016, and a copy was served on Respondent by U.S. mail the same day.

(b) The first amended charge in this proceeding was filed by the Charging Party on February 18, 2016, and a copy was served on Respondent by U.S. mail the same day.

2. (a) At material times, Respondent has been a New York State corporation with an office and place of business located at 19 Cleveland Place, New York, New York (Respondent's facility), engaged in the operation of a restaurant serving food and beverages to the public.

(b) Annually, Respondent, in the course and conduct of its operations as described above in sub-paragraph (a), derives gross revenue in excess of \$500,000.

(c) Annually, Respondent, in the course and conduct of its operations as described above in sub-paragraph (a), purchases and receives at its facility goods and materials valued in excess of \$5,000 directly from suppliers located outside New York State.

3. At material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At all material times, the following individuals held the position set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents within the meaning of Section 2(13) of the Act:

William Mark Young	-	Owner
Lori Selden	-	Owner
Steven Morgan	-	Director of Operations
Theodora Alfredou	-	General Manager

5. At material times, John Petrow held the position of Respondent's Shift Manager and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

6. (a) On or about October 5, 2015, Respondent's employees Tangni Fagoth (Fagoth), Stephanie Garcia (Garcia), and Nadgie Santana (Santana) concerted complained to Respondent regarding the wages, hours, and working conditions of Respondent's employees, by complaining about, among other things, their work schedules, Respondent's tip policies, and General Manager Theodora Alfredou's treatment of employees.

(b) On or about October 29, 2015, Respondent's employees Fagoth, Garcia, Juliana Palomino (Palomino), and Santana engaged in concerted activities with other employees for the purposes of mutual aid and protection, by replying to all recipients of a group email

which complained about, among other things, work schedules, Respondent's tip policies, and General Manager Theodora Alfredou's treatment of employees.

(c) On or about October 30, 2015, Respondent prepared and/or issued employee reprimands to the following employees:

- (i) Fagoth
- (ii) Garcia
- (iii) Palomino
- (iv) Santana;

(d) On or about October 30, 2015, Respondent discharged the following employees:

- (i) Fagoth
- (ii) Garcia
- (iii) Palomino
- (iv) Santana;

(e) Respondent engaged in the conduct described above in sub-paragraphs (c) and (d) because Fagoth, Garcia, and Santana engaged in the conduct described above in sub-paragraphs (a) and (b) and to discourage employees from engaging in these or other concerted activities.

(f) Respondent engaged in the conduct described above in sub-paragraph (c) and (d) because Palomino engaged in the conduct described above in sub-paragraph (b) and to discourage employees from engaging in these or other concerted activities.

7. By the conduct described above in paragraphs 6 (c), (d), (e), and (f), Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

In order to fully remedy the unfair labor practices set forth above in paragraph 6, the General Counsel seeks an order requiring that the discriminatees be made whole, including reasonable consequential damages incurred as a result of the Respondent's unlawful conduct.

The General Counsel further seeks, as part of the remedy for the allegations in paragraph 6, that Respondent reimburse discriminatees for all search-for-work and work related expenses regardless of whether the discriminatees received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period.

Finally, the General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 14, 2016, or postmarked on or before June 13, 2016.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **August 3, 2016, at 9:30 a.m. at the Mary Walker Taylor Hearing Room at 26 Federal Plaza Room 3614, New York, New York**, and on

consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated:

Karen P. Fernbach
Regional Director
National Labor Relations Board
Region 02
26 Federal Plaza - Suite 3614
New York, NY 10278-3699

Attachments

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2

Mexican Radio Corporation
Charged Party

and

Case 02-CA-168989

Rachel Nicotra, an Individual
Charging Party

NOTICE OF INTENTION TO AMEND COMPLAINT

Please take notice that, on Tuesday, August 23, 2016, the first day of the hearing in the above-captioned case, the General Counsel, by its Counsel Joseph Luhrs ("General Counsel"), intends to move to amend the Complaint in the following manner:

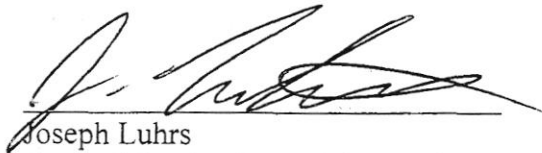
- I. Paragraph six (6) sub-paragraphs (a) and (b) of the Complaint are unchanged, replace the remaining sub-paragraphs of paragraph six (6), to read as follows:
 6. (c) On or about October 30, 2015, Respondent prepared and/or issued employee reprimands to the following employees:
 - (i) Fagoth
 - (ii) Garcia
 - (iii) Palomino
 - (iv) Santana;
 - (d) On or about October 30, 2015, Respondent discharged the following employees:
 - (i) Fagoth
 - (ii) Garcia
 - (iii) Palomino
 - (iv) Santana;
 - (e) Respondent engaged in the conduct described above in sub-paragraphs (c) and (d) because Fagoth, Garcia, and Santana engaged in the conduct described above in sub-paragraphs (a) and (b) and to discourage employees from engaging in these or other concerted activities.

(f) Respondent engaged in the conduct described above in sub-paragraph (c) and (d) because Palomino engaged in the conduct described above in sub-paragraph (b) and to discourage employees from engaging in these or other concerted activities.

II. Modify paragraph seven (7) of the Complaint, to read as follows:

7. By the conduct described above in paragraphs 6 (c), (d), (e) and (f) Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

Dated at New York, New York, this 19th day of August 2016.



Joseph Luhrs
Counsel for the General Counsel
National Labor Relations Board
Region 2
26 Federal Plaza, Room 3614
New York, New York 10278

NOTICE

The Complaint attached hereto alleges that the Respondent has violated certain sections of the National Labor Relations Act and a formal hearing has been scheduled with respect thereto. By this notice I wish to call the attention of all parties to the policy of this Agency favoring a settlement of cases notwithstanding that a Complaint has issued. It is the position of the Agency that an early settlement will be an advantage to all parties because it eliminates, among other things, the time and expense involved in formal litigation of a matter. In furtherance of this policy the Board agent with whom you have dealt or the attorney to whom the matter has been assigned for trial, will contact the representatives of the Respondent and the Charging Party within a matter of days for the purpose of engaging in intensive discussions to determine whether or not a settlement can be achieved. All of the facilities of this office are available to the parties in furthering the achievement of a satisfactory disposition of the matter which will be consistent with the purpose and policies of the National Labor Relations Act.

Karen P. Fernbach

Regional Director
National Labor Relations Board
Region 2

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 2

MEXICAN RADIO CORP.

and

Case No. 02-CA-168989

RACHEL NICOTRA, an Individual

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Rachel Nicotra, an Individual (Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Mexican Radio Corp. (Respondent) has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on February 3, 2016, and a copy was served on Respondent by U.S. mail the same day.

(b) The first amended charge in this proceeding was filed by the Charging Party on February 18, 2016, and a copy was served on Respondent by U.S. mail the same day.

2. (a) At material times, Respondent has been a New York State corporation with an office and place of business located at 19 Cleveland Place, New York, New York (Respondent's facility), engaged in the operation of a restaurant serving food and beverages to the public.

(b) Annually, Respondent, in the course and conduct of its operations as described above in sub-paragraph (a), derives gross revenue in excess of \$500,000.

(c) Annually, Respondent, in the course and conduct of its operations as described above in sub-paragraph (a), purchases and receives at its facility goods and materials valued in excess of \$5,000 directly from suppliers located outside New York State.

3. At material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. At material times, the following individuals held the positions set forth opposite their respective names have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents within the meaning of Section 2(13) of the Act:

Michael Young	-	Owner
Lori Selden	-	Owner
Steven Morgan	-	Human Resources Director
Theodora Alfredou	-	General Manager

5. At material times, John Petrow held the position of Respondent's Shift Manager and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

6. (a) On or about October 5, 2015, Respondent's employees Tangni Fagoth (Fagoth), Stephanie Garcia (Garcia), and Nadgie Santana (Santana) concertedly complained to Respondent regarding the wages, hours, and working conditions of Respondent's employees, by complaining about, among other things, their work schedules, Respondent's tip policies, and General Manager Theodora Alfredou's treatment of employees.

(b) On or about October 29, 2015, Respondent's employees Fagoth, Garcia, Juliana Palomino (Palomino), and Santana engaged in concerted activities with other employees for the purposes of mutual aid and protection, by replying to all recipients of a group email

which complained about, among other things, work schedules, Respondent's tip policies, and General Manager Theodora Alfredou's treatment of employees.

(c) On or about October 30, 2015, Respondent discharged the following employees:

- (i) Fagoth
- (ii) Garcia
- (iii) Palomino
- (iv) Santana.

(d) Respondent engaged in the conduct described above in sub-paragraphs (c) (i), (ii), (iv) because Fagoth, Garcia, and Santana engaged in the conduct described above in sub-paragraphs (a) and (b) and to discourage employees from engaging in these or other concerted activities.

(e) Respondent engaged in the conduct described above in sub-paragraph (c) (iii) because Palomino engaged in the conduct described above in sub-paragraph (b) and to discourage employees from engaging in these or other concerted activities.

7. By the conduct described above in paragraphs 6 (c), (d) and (e) Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

WHEREFORE in order to fully remedy the unfair labor practices set forth above in paragraph 6, the General Counsel seeks an order requiring that the discriminatees be made whole, including reasonable consequential damages incurred as a result of the Respondent's unlawful conduct.

WHEREFORE the General Counsel further seeks, as part of the remedy for the allegations in paragraph 6, that Respondent reimburse discriminatees for all search-for-work and work related expenses regardless of whether the discriminatees received interim earnings in excess of these expenses, or at all, during any given quarter, or during the overall backpay period.

Finally, the General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before June 14, 2016, or postmarked on or before June 13, 2016.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is

unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on **August 3, 2016**, at 9:30 a.m. at the **Mary Walker Taylor Hearing Room at 26 Federal Plaza Room 3614, New York, New York**, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached

A - 015

Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: May 31, 2016

A handwritten signature in cursive script, reading "Karen P. Fernbach", written in black ink.

Karen P. Fernbach, Regional Director
National Labor Relations Board
Region 02
26 Federal Plaza - Suite 3614
New York, NY 10278-3699

Attachments

FORM NLRB 4338
(6-90)

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 02-CA-168989

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements **will not be granted** unless good and sufficient grounds are shown **and** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in **detail**;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Dana L Salazar, Esq.
573 Columbia Turnpike
Building 2
East Greenbush, NY 12061-1619

Mexican Radio Corp.
19 Cleveland Place
New York, NY 10012

Rachel Nicotra
Nictotra Law
33 West 19th Street, 4th Floor
New York, NY 10011-4333

Form NLRB-4668
(6-2014)

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

(OVER)

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

A - 019

Steve Morgan

From: Stephanie Garcia <stephmg1127@gmail.com>
Sent: Thursday, October 29, 2015 1:39 PM
To: Noemi Rivera
Cc: spiderx100pre@aol.com; Mark Young; tangni@hotmail.com; Steve Morgan; julianapalomino@live.com; d.dejesusbaez@gmail.com; Lori Selden; stepheneckert@gmail.com; JP; ggilsosa@nyc.rr.com; Netty Polanco; robletomendoza@gmail.com; nadgiesantana@gmail.com; Theodora Alfredou
Subject: Re:

Just finish reading and I agree. Sad that things have to be this way.

On Oct 29, 2015 1:32 PM, "Noemi Rivera" <[redacted]> wrote:
 Well said, agreed

Let me begin by saying this is something I never thought I would be doing with an employer, pulling no call no show. It truly does break my heart. Given my amazing work ethic, I never thought I would find myself in such position. Fortunately for me, when I came to work at your establishment, I came after being told by a friend, that her very fun job was looking for a bartender for a few nights a week, not because I needed the job. I came to Mexican Radio to fill in a couple days in my week and when interviewed I was asked by John if I even wanted to work there, as I was used to working in places with much more volume. I told him I didn't care, because he too made it sound like such an amazing place to work. I ended up loving it so much I made it my priority and went part time at another place I am at. For the first time in almost two decades, I stayed at a job that paid me pennies compared to what I was used to making, because it was such a pleasure to be working there. Everyone was so close and quickly everyone became like family. I came in there ready and willing to help the place in every way I could, even requesting social media access to update more frequently than yearly, as you guys were not posting anything at all. I completely took apart that disgusting bar and made it shine, without anyone asking me to. Every Sunday and Monday I would take it upon myself to give myself cleaning projects to keep it clean, even polishing your wine glasses, snifters, and martini glasses WEEKLY. Again no one told me to do any of it. I genuinely cared about the conditions of a bar I planned on helping bring business to, because I saw the potential it had. I had asked Steve and John for their help several times with my ideas.

Fast forward a bit and you guys make the decision to bring in an uncivil, uncouth, disrespectful, vulgar, manipulative tyrant, who has absolutely no sense of respect for others and deserves absolutely none back. Now as a business owner myself, I have to believe that this has to be a business plan. A 6 month clean up of your NYC location, where you bring someone that has no clue what they are doing with the FOH, or BOH for that matter, to do all your dirty work before you shut down your location. I mean why else would you be trying to "cut costs", yet here you are paying someone \$1300 a week to do spreadsheets and now she needs an assistant because she can't work so many hours or close. Probably because she is still hanging on to her evening waitressing job, that she admitted to still having very recently. You've got to be kidding me. You cut

the hours of your loyal kitchen staff after not paying them overtime for so many years and just paying them a little hush money, from what I have been told. Yet now that you are forced to pay overtime you refuse to even schedule them their over time, ultimately screwing with their livelihood. There is no way I can believe someone, with the business savvy to have 3 locations open, can make such crass business decisions for their "first born". It has to be a Donald Trump business move to wipe the slate clean, in my opinion.

Theo came in with an agenda. To clean house. Sadly for her, her aggression was met with resistance and a strong alliance and will always continue to do so because she is completely tactless. I've witnessed firsthand how she pretty much degraded the poor old man who had your business with the linen for so many years. She spoke to him so ill, he had to ask to speak to John and she very bluntly told him, "You no longer speak to John, you deal with me only. Work on bringing this price down, because I have friends in the business that can do much better." Obviously that couldn't have been the case because we still have no napkins since the linen company dropped us, as they refuse to deal with her, as did our tortilla company. I guess her friends in high places could do nothing for her. Ultimately it trickled down to how she speaks to your guests as well. I mean the ones she actually goes to. She pretty much refuses to do table visits because "those are not the people she wants coming back anyway." When she does make it to a table she is so unprofessionally rude, one table said they felt they were on hidden camera. We brought up this particular incident to not only Steve, but Mark as well. When we had our first official new GM meeting, after Theo had already come in and completely changed everyones schedules and told us all directly she cannot do anything about it because John had requested to work those days, we brought up the runner tip out situation. I was not aware that we had our runner in the pool 100% until she scheduled me on my first floor shift, that Tuesday. I've been in this business since I was a teenager and never ever have I heard of that. I immediately told John I was not Ok with that AT ALL. I don't disagree that our runners work very hard, but it is NOT our place to pay their salary! The only people benefiting from that situation is Mexican Radio. When this was brought up to her, as the new GM, her VERY HOSTILE (she even got up from her chair to make her tyrant point) solution to the situation was that she would prefer to fire us all and keep the runners working, than to come to a solution for the tip out. Right there and then, losing any ounce of respect I could've had for her. We Naively told Steve all of our concerns from day one and he did absolutely nothing. It is obvious, to me, that unfortunately, your staff has been a bit ignorant about their rights, but allow me to inform you, that I have been schooling them, as a decent business owner that knows what I cannot and won't ever do to my employees, and that you most definitely cannot do to yours. Now by law, it is very inappropriate for us to be pooling tips with someone who has any say in what goes on in that restaurant, ESPECIALLY scheduling. Whether John wants to admit it or not he has a high management position at Mexican Radio and would be in his best interest to remain "neutral" to our faces when he is benefiting no matter what. I wouldn't be surprised if he is just being paid to keep shut and be an obedient minion, because I see no other reason for him not to stand up for his staff, or rather "former staff" who he KNOWS is absolutely amazing! I have been patient and always brought our concerns immediately to him as well. Obviously, our concerns were not even acknowledged.

When the Tequila club and specials were first brought to our location, I was on top of them. Handing in memberships for almost every guest who came to the bar. Everyone else was making sure to push them to the tables and the specials were going like crazy, because everyone actually cared.

Lori, you have expressed to Theo how we are "Los niños from hell" because we no longer sign up guests for tequila clubs or sell specials, as we did with no problems before. Crazy that I have to even be telling you this when you own 3 restaurants, but if one is being treated condescendingly and like a second class citizen, don't expect people to do more than what their job requires. It is very unfortunate that you had people that cared

about your establishment and now because of you, Theo, and even Steve (for looking the other way when we voiced our concern from the very beginning), despise the place.

A little lesson from life, you reap what you sow.

It is obvious to me, Lori, that you conduct business in a very fraudulent way. I recently saw an email from you, asking Theo to forge a write up for Jeremy, to avoid paying unemployment, and Theo agreeing. Is this how you run your businesses? Are you really that disgustingly greedy?? Just know that even if deleted, things like that always have a way of coming back up. Always. You have NO LOYALTY to even your most loyal minion, John, and I feel sorry for him...stuck having to deal with you. Trashing him in your emails with your new GM. How fucking dare you, knowing your own unscrupulous business practices, allow her manipulating self to treat your staff in the manner she does. John must know a whoooooole lot because the way you speak about him, is as if he is a nuisance you don't around, but you can't do much about it because he knows too much, again giving more fuel to my thoughts on him being paid off to just hush. Steve was made aware from the beginning the discrimination against Nadgie, and even after bringing it up to Mark, nothing was done. After sitting back and just observing these past few weeks I have to say that I still think this is all a plan to shut down right before the year ends to write it all off. I wouldn't be surprised if you forge your sales with the IRS and the new POS system is just to cover up the fraud. Just remember though, as I stated previously, things like that always have a funny way of surfacing.

Let it be known that I have personally witnessed Stephen being discriminated against because of his MS, by your new GM. She has gone as far as asking several, if not all of us, if she should just fire him due to the liability he can potentially be. I have no problem testifying on his behalf if it boils down to it. This was also mentioned to Steve when it happened, in the beginning. If you think only ex employees are a problem for you, you are in for a big surprise. Let me reiterate, I have been schooling the staff on their rights and how they are being completely violated, even more now with your new GM. Her arrogant sloppiness, will be much more costly than the change you are trying to save by screwing over your employees and the change you save lowering the quality of the food, which is suffering. So many people have complained it's ridiculous, especially about the vegan cheese changing. Which she actually wouldn't even admit she changed, as if we vegans don't know the difference.

I am not only sending this email to the owners and management. I am sending this to the entire staff so that they know, they should stand up for their rights and that I will help them with the process. Please note staff, it is ILLEGAL for management to intimidate you or try to talk you out of contacting the Department of Labor. If you really wanted to make this place work, Lori, you would have hired someone to come in to provide structure, which I admitted we needed and voiced it to Steve when I first met him, but that treats your staff with dignity and the gratefulness they deserve. Although after reading your emails, I can see how despicable you are. (2 seconds after meeting Mark, I could see he was the ONLY good thing in your life.) Instead of hiring someone to work with us, you hired someone who makes discriminating decisions because she is so emotionally charged, she can't help it. Maybe if she can stop hiring porters with her vagina, we can get one that is worthwhile. Are you aware that your GM opened Angelica's check and then poked fun at her finances

A - 022

with the kitchen? I am sure you are aware by now, but do not care. I am sure you understand the legality of that as well.

I am positive since I stopped cleaning the bar several weeks ago, it is back to its disgusting state. Sink is back to being black and the soda gun back to being moldy. I got tired of caring for a place more than the owners did. I got tired of doing it for people that didn't even appreciate it. I hope your staff does what needs to be done and they stand up for what they deserve. I will diligently try to help them in any way I can. If your plan is to shut down Mexican Radio NYC and turn your entire staff against you, you are very much succeeding.

Netty

Steve Morgan

From: tangni fagoth <tangni@hotmail.com>
Sent: Thursday, October 29, 2015 1:39 PM
To: nettyp@gmail.com; Lori Selden; Mark Young; Steve Morgan; Theodora Alfredou; JP; noemilrivera@yahoo.com; robletomendoza@gmail.com; spiderx100pre@aol.com; d.dejesusbaez@gmail.com; nadgiesantana@gmail.com; stephmg1127@gmail.com; stepheneckert@gmail.com; julianapalomino@live.com; ggilsosa@nyc.rr.com
Subject: RE:

Wow Anette, gracias.

Thank you for standing up for us. We will miss you

Tangni

Date: Thu, 29 Oct 2015 12:21:18 -0400

Subject:

From: nettyp@gmail.com

To: Lori@mexrad.com; Mark@mexrad.com; Steve@mexrad.com; theodora@mexrad.com; jp@mexrad.com; noemilrivera@yahoo.com; tangni@hotmail.com; robletomendoza@gmail.com; spiderx100pre@aol.com; d.dejesusbaez@gmail.com; nadgiesantana@gmail.com; stephmg1127@gmail.com; stepheneckert@gmail.com; julianapalomino@live.com; ggilsosa@nyc.rr.com

Let me begin by saying this is something I never thought I would be doing with an employer, pulling no call no show. It truly does break my heart. Given my amazing work ethic, I never thought I would find myself in such position. Fortunately for me, when I came to work at your establishment, I came after being told by a friend, that her very fun job was looking for a bartender for a few nights a week, not because I needed the job. I came to Mexican Radio to fill in a couple days in my week and when interviewed I was asked by John if I even wanted to work there, as I was used to working in places with much more volume. I told him I didn't care, because he too made it sound like such an amazing place to work. I ended up loving it so much I made it my priority and went part time at another place I am at. For the first time in almost two decades, I stayed at a job that paid me pennies compared to what I was used to making, because it was such a pleasure to be working there. Everyone was so close and quickly everyone became like family. I came in there ready and willing to help the place in every way I could, even requesting social media access to update more frequently than yearly, as you guys were not posting anything at all. I completely took apart that disgusting bar and made it shine, without anyone asking me to. Every Sunday and Monday I would take it upon myself to give myself cleaning projects to keep it clean, even polishing your wine glasses, snifters, and martini glasses WEEKLY. Again no one told me to do any of it. I genuinely cared about the conditions of a bar I planned on helping bring business to, because I saw the potential it had. I had asked Steve and John for their help several times with my ideas.

Fast forward a bit and you guys make the decision to bring in an uncivil, uncouth, disrespectful, vulgar, manipulative tyrant, who has absolutely no sense of respect for others and deserves absolutely none back. Now as a business owner myself, I have to believe that this has to be a business plan. A 6 month clean up of your NYC location, where you bring someone that has no clue what they are doing with the FOH, or BOH for that matter, to do all your dirty work before you shut down your location. I mean why else would you be

5b

trying to "cut costs", yet here you are paying someone \$1300 a week to do spreadsheets and now she needs an assistant because she can't work so many hours or close. Probably because she is still hanging on to her evening waitressing job, that she admitted to still having very recently. You've got to be kidding me. You cut the hours of your loyal kitchen staff after not paying them overtime for so many years and just paying them a little hush money, from what I have been told. Yet now that you are forced to pay overtime you refuse to even schedule them their over time, ultimately screwing with their livelihood. There is no way I can believe someone, with the business savvy to have 3 locations open, can make such crass business decisions for their "first born". It has to be a Donald Trump business move to wipe the slate clean, in my opinion.

Theo came in with an agenda. To clean house. Sadly for her, her aggression was met with resistance and a strong alliance and will always continue to do so because she is completely tactless. I've witnessed firsthand how she pretty much degraded the poor old man who had your business with the linen for so many years. She spoke to him so ill, he had to ask to speak to John and she very bluntly told him, "You no longer speak to John, you deal with me only. Work on bringing this price down, because I have friends in the business that can do much better." Obviously that couldn't have been the case because we still have no napkins since the linen company dropped us, as they refuse to deal with her, as did our tortilla company. I guess her friends in high places could do nothing for her. Ultimately it trickled down to how she speaks to your guests as well, I mean the ones she actually goes to. She pretty much refuses to do table visits because "those are not the people she wants coming back anyway." When she does make it to a table she is so unprofessionally rude, one table said they felt they were on hidden camera. We brought up this particular incident to not only Steve, but Mark as well. When we had our first official new GM meeting, after Theo had already come in and completely changed everyone's schedules and told us all directly she cannot do anything about it because John had requested to work those days, we brought up the runner tip out situation. I was not aware that we had our runner in the pool 100% until she scheduled me on my first floor shift, that Tuesday. I've been in this business since I was a teenager and never ever have I heard of that. I immediately told John I was not Ok with that AT ALL. I don't disagree that our runners work very hard, but it is NOT our place to pay their salary! The only people benefiting from that situation is Mexican Radio. When this was brought up to her, as the new GM, her VERY HOSTILE (she even got up from her chair to make her tyrant point) solution to the situation was that she would prefer to fire us all and keep the runners working, than to come to a solution for the tip out. Right there and then, losing any ounce of respect I could've had for her. We Naively told Steve all of our concerns from day one and he did absolutely nothing. It is obvious, to me, that unfortunately, your staff has been a bit ignorant about their rights, but allow me to inform you, that I have been schooling them, as a decent business owner that knows what I cannot and won't ever do to my employees, and that you most definitely cannot do to yours. Now by law, it is very inappropriate for us to be pooling tips with someone who has any say in what goes on in that restaurant, ESPECIALLY scheduling. Whether John wants to admit it or not he has a high management position at Mexican Radio and would be in his best interest to remain "neutral" to our faces when he is benefiting no matter what. I wouldn't be surprised if he is just being paid to keep shut and be an obedient minion, because I see no other reason for him not to stand up for his staff, or rather "former staff" who he KNOWS is absolutely amazing! I have been patient and always brought our concerns immediately to him as well. Obviously, our concerns were not even acknowledged.

When the Tequila club and specials were first brought to our location, I was on top of them. Handing in memberships for almost every guest who came to the bar. Everyone else was making sure to push them to the tables and the specials were going like crazy, because everyone actually cared. Lori, you have expressed to Theo how we are "Los niños from hell!" because we no longer sign up guests for tequila clubs or sell specials, as we did with no problems before. Crazy that I have to even be telling you this

when you own 3 restaurants, but if one is being treated condescendingly and like a second class citizen, don't expect people to do more than what their job requires. It is very unfortunate that you had people that cared about your establishment and now because of you, Theo, and even Steve (for looking the other way when we voiced our concern from the very beginning), despise the place.

A little lesson from life, you reap what you sow.

It is obvious to me, Lori, that you conduct business in a very fraudulent way. I recently saw an email from you, asking Theo to forge a write up for Jeremy, to avoid paying unemployment, and Theo agreeing. Is this how you run your businesses? Are you really that disgustingly greedy?? Just know that even if deleted, things like that always have a way of coming back up. Always. You have NO LOYALTY to even your most loyal minion, John, and I feel sorry for him...stuck having to deal with you. Trashing him in your emails with your new GM. How fucking dare you, knowing your own unscrupulous business practices, allow her manipulating self to treat your staff in the manner she does. John must know a whoooooole lot because the way you speak about him, is as if he is a nuisance you don't around, but you can't do much about it because he knows too much, again giving more fuel to my thoughts on him being paid off to just hush. Steve was made aware from the beginning the discrimination against Nadgie, and even after bringing it up to Mark, nothing was done. After sitting back and just observing these past few weeks I have to say that I still think this is all a plan to shut down right before the year ends to write it all off. I wouldn't be surprised if you forge your sales with the IRS and the new POS system is just to cover up the fraud. Just remember though, as I stated previously, things like that always have a funny way of surfacing.

Let it be known that I have personally witnessed Stephen being discriminated against because of his MS, by your new GM. She has gone as far as asking several, if not all of us, if she should just fire him due to the liability he can potentially be. I have no problem testifying on his behalf if it boils down to it. This was also mentioned to Steve when it happened, in the beginning. If you think only ex employees are a problem for you, you are in for a big surprise. Let me reiterate, I have been schooling the staff on their rights and how they are being completely violated, even more now with your new GM. Her arrogant sloppiness, will be much more costly than the change you are trying to save by screwing over your employees and the change you save lowering the quality of the food, which is suffering. So many people have complained it's ridiculous, especially about the vegan cheese changing. Which she actually wouldn't even admit she changed, as if we vegans don't know the difference.

I am not only sending this email to the owners and management, I am sending this to the entire staff so that they know, they should stand up for their rights and that I will help them with the process. Please note staff, it is ILLEGAL for management to intimidate you or try to talk you out of contacting the Department of Labor. If you really wanted to make this place work, Lori, you would have hired someone to come in to provide structure, which I admitted we needed and voiced it to Steve when I first met him, but that treats your staff with dignity and the gratefulness they deserve. Although after reading your emails, I can see how despicable you are. (2 seconds after meeting Mark, I could see he was the ONLY good thing in your life.) Instead of hiring someone to work with us, you hired someone who makes discriminating decisions because she is so emotionally charged, she can't help it. Maybe if she can stop hiring porters with her vagina, we can get one that is worthwhile. Are you aware that your GM opened Angelica's check and then poked fun at her finances with the kitchen? I am sure you are aware by now, but do not care. I am sure you understand the legality of

that as well.

I am positive since I stopped cleaning the bar several weeks ago, it is back to its disgusting state. Sink is back to being black and the soda gun back to being moldy. I got tired of caring for a place more than the owners did. I got tired of doing it for people that didn't even appreciate it. I hope your staff does what needs to be done and they stand up for what they deserve. I will diligently try to help them in any way I can. If your plan is to shut down Mexican Radio NYC and turn your entire staff against you, you are very much succeeding.

Netty

Steve Morgan

From: Nadgie santana <nadgiesantana@gmail.com>
Sent: Thursday, October 29, 2015 2:21 PM
To: Netty Polanco
Cc: Lori Selden; Mark Young; Steve Morgan; Theodora Alfredou; JP; noemilrivera@yahoo.com; tangni@hotmail.com; robletomendoza@gmail.com; spiderx100pre@aol.com; d.dejesusbaz@gmail.com; stephmg1127@gmail.com; stepheneckert@gmail.com; julianapalomino@live.com; ggilsosa@nyc.rr.com
Subject: Re:

I'm glad you said what you felt was right. I understand your point of view 100%. Thanks you for being voice for us all.

Sent from my iPhone

On Oct 29, 2015, at 12:21 PM, Netty Polanco <nettyp@gmail.com> wrote:

Let me begin by saying this is something I never thought I would be doing with an employer. pulling no call no show. It truly does break my heart. Given my amazing work ethic, I never thought I would find myself in such position. Fortunately for me, when I came to work at your establishment, I came after being told by a friend, that her very fun job was looking for a bartender for a few nights a week, not because I needed the job. I came to Mexican Radio to fill in a couple days in my week and when interviewed I was asked by John if I even wanted to work there, as I was used to working in places with much more volume. I told him I didn't care, because he too made it sound like such an amazing place to work. I ended up loving it so much I made it my priority and went part time at another place I am at. For the first time in almost two decades, I stayed at a job that paid me pennies compared to what I was used to making, because it was such a pleasure to be working there. Everyone was so close and quickly everyone became like family. I came in there ready and willing to help the place in every way I could, even requesting social media access to update more frequently than yearly, as you guys were not posting anything at all. I completely took apart that disgusting bar and made it shine, without anyone asking me to. Every Sunday and Monday I would take it upon myself to give myself cleaning projects to keep it clean, even polishing your wine glasses, sniffers, and martini glasses WEEKLY. Again no one told me to do any of it. I genuinely cared about the conditions of a bar I planned on helping bring business to, because I saw the potential it had. I had asked Steve and John for their help several times with my ideas.

Fast forward a bit and you guys make the decision to bring in an uncivil, uncouth, disrespectful, vulgar, manipulative tyrant, who has absolutely no sense of respect for others and deserves absolutely none back. Now as a business owner myself, I have to believe that this has to be a business plan. A 6 month clean up of your NYC location, where you bring someone that has no clue what they are doing with the FOH, or BOH for that matter, to do all your dirty work before you shut down your location. I mean why else would you be trying to "cut costs", yet here you are paying someone \$1300 a week to do spreadsheets and now she needs an assistant because she can't work so many hours or close. Probably because she is still hanging on to her evening waitressing job, that she admitted to still having very recently. You've got to be kidding

me. You cut the hours of your loyal kitchen staff after not paying them overtime for so many years and just paying them a little hush money, from what I have been told. Yet now that you are forced to pay overtime you refuse to even schedule them their over time, ultimately screwing with their livelihood. There is no way I can believe someone, with the business savvy to have 3 locations open, can make such crass business decisions for their "first born". It has to be a Donald Trump business move to wipe the slate clean, in my opinion.

Theo came in with an agenda. To clean house. Sadly for her, her aggression was met with resistance and a strong alliance and will always continue to do so because she is completely tactless. I've witnessed firsthand how she pretty much degraded the poor old man who had your business with the linen for so many years. She spoke to him so ill, he had to ask to speak to John and she very bluntly told him, "You no longer speak to John, you deal with me only. Work on bringing this price down, because I have friends in the business that can do much better." Obviously that couldn't have been the case because we still have no napkins since the linen company dropped us, as they refuse to deal with her, as did our tortilla company. I guess her friends in high places could do nothing for her. Ultimately it trickled down to how she speaks to your guests as well, I mean the ones she actually goes to. She pretty much refuses to do table visits because "those are not the people she wants coming back anyway." When she does make it to a table she is so unprofessionally rude, one table said they felt they were on hidden camera. We brought up this particular incident to not only Steve, but Mark as well. When we had our first official new GM meeting, after Theo had already come in and completely changed everyone's schedules and told us all directly she cannot do anything about it because John had requested to work those days, we brought up the runner tip out situation. I was not aware that we had our runner in the pool 100% until she scheduled me on my first floor shift, that Tuesday. I've been in this business since I was a teenager and never ever have I heard of that. I immediately told John I was not Ok with that AT ALL. I don't disagree that our runners work very hard, but it is NOT our place to pay their salary! The only people benefiting from that situation is Mexican Radio. When this was brought up to her, as the new GM, her VERY HOSTILE (she even got up from her chair to make her tyrant point) solution to the situation was that she would prefer to fire us all and keep the runners working, than to come to a solution for the tip out. Right there and then, losing any ounce of respect I could've had for her. We Naively told Steve all of our concerns from day one and he did absolutely nothing. It is obvious, to me, that unfortunately, your staff has been a bit ignorant about their rights, but allow me to inform you, that I have been schooling them, as a decent business owner that knows what I cannot and won't ever do to my employees, and that you most definitely cannot do to yours. Now by law, it is very inappropriate for us to be pooling tips with someone who has any say in what goes on in that restaurant, ESPECIALLY scheduling. Whether John wants to admit it or not he has a high management position at Mexican Radio and would be in his best interest to remain "neutral" to our faces when he is benefiting no matter what. I wouldn't be surprised if he is just being paid to keep shut and be an obedient minion, because I see no other reason for him not to stand up for his staff, or rather "former staff" who he KNOWS is absolutely amazing! I have been patient and always brought our concerns immediately to him as well. Obviously, our concerns were not even acknowledged.

When the Tequila club and specials were first brought to our location. I was on top of them. Handing in memberships for almost every guest who came to the bar. Everyone else was

making sure to push them to the tables and the specials were going like crazy, because everyone actually cared.

Lori, you have expressed to Theo how we are "Los niños from hell" because we no longer sign up guests for tequila clubs or sell specials, as we did with no problems before. Crazy that I have to even be telling you this when you own 3 restaurants, but if one is being treated condescendingly and like a second class citizen, don't expect people to do more than what their job requires. It is very unfortunate that you had people that cared about your establishment and now because of you, Theo, and even Steve (for looking the other way when we voiced our concern from the very beginning), despise the place.

A little lesson from life, you reap what you sow.

It is obvious to me, Lori, that you conduct business in a very fraudulent way. I recently saw an email from you, asking Theo to forge a write up for Jeremy, to avoid paying unemployment, and Theo agreeing. Is this how you run your businesses? Are you really that disgustingly greedy?? Just know that even if deleted, things like that always have a way of coming back up. Always. You have NO LOYALTY to even your most loyal minion, John, and I feel sorry for him...stuck having to deal with you. Trashing him in your emails with your new GM. How fucking dare you, knowing your own unscrupulous business practices, allow her manipulating self to treat your staff in the manner she does. John must know a whoooooole lot because the way you speak about him, is as if he is a nuisance you don't around, but you can't do much about it because he knows too much, again giving more fuel to my thoughts on him being paid off to just hush. Steve was made aware from the beginning the discrimination against Nadgie, and even after bringing it up to Mark, nothing was done. After sitting back and just observing these past few weeks I have to say that I still think this is all a plan to shut down right before the year ends to write it all off. I wouldn't be surprised if you forge your sales with the IRS and the new POS system is just to cover up the fraud. Just remember though, as I stated previously, things like that always have a funny way of surfacing.

Let it be known that I have personally witnessed Stephen being discriminated against because of his MS, by your new GM. She has gone as far as asking several, if not all of us, if she should just fire him due to the liability he can potentially be. I have no problem testifying on his behalf if it boils down to it. This was also mentioned to Steve when it happened, in the beginning. If you think only ex employees are a problem for you, you are in for a big surprise. Let me reiterate, I have been schooling the staff on their rights and how they are being completely violated, even more now with your new GM. Her arrogant sloppiness, will be much more costly than the change you are trying to save by screwing over your employees and the change you save lowering the quality of the food, which is suffering. So many people have complained it's ridiculous, especially about the vegan cheese changing. Which she actually wouldn't even admit she changed, as if we vegans don't know the difference.

I am not only sending this email to the owners and management, I am sending this to the entire staff so that they know, they should stand up for their rights and that I will help them with the process. Please note staff, it is ILLEGAL for management to intimidate you or try to talk you out of contacting the Department of Labor. If you really wanted to make this place work, Lori, you would have hired someone to come in to provide structure, which I admitted we needed and voiced it to Steve when I first met him, but that treats your staff with dignity and the gratefulness they deserve. Although after reading your emails, I can see how despicable you are. (2 seconds after meeting Mark, I could see he was the ONLY good thing in your life.) Instead of hiring someone to work with us, you hired someone who makes discriminating decisions because she is so emotionally charged, she can't help it. Maybe if she can stop hiring porters with her vagina, we can get one that is worthwhile. Are you aware that your GM opened Angelica's check and then poked fun at her finances with the kitchen? I am sure you are aware by now, but do not care. I am sure you understand the legality of that as well.

I am positive since I stopped cleaning the bar several weeks ago, it is back to its disgusting state. Sink is back to being black and the soda gun back to being moldy. I got tired of caring for a place more than the owners did. I got tired of doing it for people that didn't even appreciate it. I hope your staff does what needs to be done and they stand up for what they deserve. I will diligently try to help them in any way I can. If your plan is to shut down Mexican Radio NYC and turn your entire staff against you, you are very much succeeding.

Netty

A - 031

From: Juliana Palomino [mailto:julianapalomino@live.com]

Sent: Thursday, October 29, 2015 1:31 PM

To: tangni@hotmail.com; spiderx100pre@aol.com; stepheneckert@gmail.com; robletomendoza@gmail.com; Steve Morgan <Steve@mexrad.com>; stephmg1127@gmail.com; JP <JP@mexrad.com>; Theodora Alfredou <Theodora@mexrad.com>; Mark Young <Mark@mexrad.com>; nadgiesantana@gmail.com; ggilsosa@nyc.rr.com; d.dejesusbaez@gmail.com; Netty Polanco <nettyp@gmail.com>; Lori Selden <Lori@mexrad.com>; noemilrivera@yahoo.com

Subject: Re:

I agree a 100 % as well

Sent from Outlook

On Thu, Oct 29, 2015 at 9:21 AM -0700, "Netty Polanco" <nettyp@gmail.com> wrote:

Let me begin by saying this is something I never thought I would be doing with an employer, pulling no call no show. It truly does break my heart. Given my amazing work ethic, I never thought I would find myself in such position. Fortunately for me, when I came to work at your establishment, I came after being told by a friend, that her very fun job was looking for a bartender for a few nights a week, not because I needed the job. I came to Mexican Radio to fill in a couple days in my week and when interviewed I was asked by John if I even wanted to work there, as I was used to working in places with much more volume. I told him I didn't care, because he too made it sound like such an amazing place to work. I ended up loving it so much I made it my priority and went part time at another place I am at. For the first time in almost two decades, I stayed at a job that paid me pennies compared to what I was used to making, because it was such a pleasure to be working there. Everyone was so close and quickly everyone became like family. I came in there ready and willing to help the place in every way I could, even requesting social media access to update more frequently than yearly, as you guys were not posting anything at all. I completely took apart that disgusting bar and made it shine, without anyone asking me to. Every Sunday and Monday I would take it upon myself to give myself cleaning projects to keep it clean, even polishing your wine glasses, snifters, and martini glasses WEEKLY. Again no one told me to do any of it. I genuinely cared about the conditions of a bar I planned on helping bring business to, because I saw the potential it had. I had asked Steve and John for their help several times with my ideas.

Fast forward a bit and you guys make the decision to bring in an uncivil, uncouth, disrespectful, vulgar, manipulative tyrant, who has absolutely no sense of respect for others and deserves absolutely none back. Now as a business owner myself, I have to believe that this has to be a business plan. A 6 month clean up of your NYC location, where you bring someone that has no clue what they are doing with the FOH, or BOH for that

matter, to do all your dirty work before you shut down your location. I mean why else would you be trying to "cut costs", yet here you are paying someone \$1300 a week to do spreadsheets and now she needs an assistant because she can't work so many hours or close. Probably because she is still hanging on to her evening waitressing job, that she admitted to still having very recently. You've got to be kidding me. You cut the hours of your loyal kitchen staff after not paying them overtime for so many years and just paying them a little hush money, from what I have been told. Yet now that you are forced to pay overtime you refuse to even schedule them their over time, ultimately screwing with their livelihood. There is no way I can believe someone, with the business savvy to have 3 locations open, can make such crass business decisions for their "first born". It has to be a Donald Trump business move to wipe the slate clean, in my opinion.

Theo came in with an agenda. To clean house. Sadly for her, her aggression was met with resistance and a strong alliance and will always continue to do so because she is completely tactless. I've witnessed firsthand how she pretty much degraded the poor old man who had your business with the linen for so many years. She spoke to him so ill, he had to ask to speak to John and she very bluntly told him, "You no longer speak to John, you deal with me only. Work on bringing this price down, because I have friends in the business that can do much better." Obviously that couldn't have been the case because we still have no napkins since the linen company dropped us, as they refuse to deal with her, as did our tortilla company. I guess her friends in high places could do nothing for her. Ultimately it trickled down to how she speaks to your guests as well, I mean the ones she actually goes to. She pretty much refuses to do table visits because "those are not the people she wants coming back anyway." When she does make it to a table she is so unprofessionally rude, one table said they felt they were on hidden camera. We brought up this particular incident to not only Steve, but Mark as well. When we had our first official new GM meeting, after Theo had already come in and completely changed everyone's schedules and told us all directly she cannot do anything about it because John had requested to work those days, we brought up the runner tip out situation. I was not aware that we had our runner in the pool 100% until she scheduled me on my first floor shift, that Tuesday. I've been in this business since I was a teenager and never ever have I heard of that. I immediately told John I was not Ok with that AT ALL. I don't disagree that our runners work very hard, but it is NOT our place to pay their salary! The only people benefiting from that situation is Mexican Radio. When this was brought up to her, as the new GM, her VERY HOSTILE (she even got up from her chair to make her tyrant point) solution to the situation was that she would prefer to fire us all and keep the runners working, than to come to a solution for the tip out. Right there and then, losing any ounce of respect I could've had for her. We Naively told Steve all of our concerns from day one and he did absolutely nothing. It is obvious, to me, that unfortunately, your staff has been a bit ignorant about their rights, but allow me to inform you, that I have been schooling them, as a decent business owner that knows what I cannot and won't ever do to my employees, and that you most definitely cannot do to yours. Now by law, it is very inappropriate for us to be pooling tips with someone who has any say in what goes on in that restaurant, ESPECIALLY scheduling. Whether John wants to admit it or not he has a high management position at Mexican Radio and would be in his best interest to remain "neutral" to our faces when he is benefiting no matter what. I wouldn't be surprised if he is just being paid to keep shut and be an obedient minion, because I see no other reason for him not to stand up for his staff, or rather "former staff" who he KNOWS is absolutely amazing! I have been patient and always brought our concerns immediately to him as well. Obviously, our concerns were not even acknowledged.

When the Tequila club and specials were first brought to our location, I was on top of them. Handing in memberships for almost every guest who came to the bar. Everyone else was making sure to push them to the tables and the specials were going like crazy, because everyone actually cared.

Lori, you have expressed to Theo how we are "Los niños from hell" because we no longer sign up guests for tequila clubs or sell specials, as we did with no problems before. Crazy that I have to even be telling you this when you own 3 restaurants, but if one is being treated condescendingly and like a second class citizen, don't expect people to do more than what their job requires. It is very unfortunate that you had people that cared about your establishment and now because of you, Theo, and even Steve (for looking the other way when we voiced our concern from the very beginning), despise the place.

A little lesson from life, you reap what you sow.

It is obvious to me, Lori, that you conduct business in a very fraudulent way. I recently saw an email from you, asking Theo to forge a write up for Jeremy, to avoid paying unemployment, and Theo agreeing. Is this how you run your businesses? Are you really that disgustingly greedy?? Just know that even if deleted, things like that always have a way of coming back up. Always. You have NO LOYALTY to even your most loyal minion, John, and I feel sorry for him...stuck having to deal with you. Trashing him in your emails with your new GM. How fucking dare you, knowing your own unscrupulous business practices, allow her manipulating self to treat your staff in the manner she does. John must know a whoooooooole lot because the way you speak about him, is as if he is a nuisance you don't around, but you can't do much about it because he knows too much, again giving more fuel to my thoughts on him being paid off to just hush. Steve was made aware from the beginning the discrimination against Nadgie, and even after bringing it up to Mark, nothing was done. After sitting back and just observing these past few weeks I have to say that I still think this is all a plan to shut down right before the year ends to write it all off. I wouldn't be surprised if you forge your sales with the IRS and the new POS system is just to cover up the fraud. Just remember though, as I stated previously, things like that always have a funny way of surfacing.

Let it be known that I have personally witnessed Stephen being discriminated against because of his MS, by your new GM. She has gone as far as asking several, if not all of us, if she should just fire him due to the liability he can potentially be. I have no problem testifying on his behalf if it boils down to it. This was also mentioned to Steve when it happened, in the beginning. If you think only ex employees are a problem for you, you are in for a big surprise. Let me reiterate, I have been schooling the staff on their rights and how they are being completely violated, even more now with your new GM. Her arrogant sloppiness, will be much more costly than the change you are trying to save by screwing over your employees and the change you save lowering the quality of the food, which is suffering. So many people have complained it's ridiculous, especially about the vegan cheese changing. Which she actually wouldn't even admit she changed, as if we vegans don't know the difference.

I am not only sending this email to the owners and management, I am sending this to the entire staff so that they know, they should stand up for their rights and that I will help them with the process. Please note staff, it is ILLEGAL for management to intimidate you or try to talk you out of contacting the Department of Labor. If you really wanted to make this place work, Lori, you would have hired someone to come in to provide structure, which I admitted we needed and voiced it to Steve when I first met him, but that treats your staff with dignity and the gratefulness they deserve. Although after reading your emails, I can see how despicable you are. (2 seconds after meeting Mark, I could see he was the ONLY good thing in your life.) Instead of hiring someone to work with us, you hired someone who makes discriminating decisions because she is so emotionally charged,

she can't help it. Maybe if she can stop hiring porters with her vagina, we can get one that is worthwhile. Are you aware that your GM opened Angelica's check and then poked fun at her finances with the kitchen? I am sure you are aware by now, but do not care. I am sure you understand the legality of that as well.

I am positive since I stopped cleaning the bar several weeks ago, it is back to its disgusting state. Sink is back to being black and the soda gun back to being moldy. I got tired of caring for a place more than the owners did. I got tired of doing it for people that didn't even appreciate it. I hope your staff does what needs to be done and they stand up for what they deserve. I will diligently try to help them in any way I can. If your plan is to shut down Mexican Radio NYC and turn your entire staff against you, you are very much succeeding.

Netty